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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/361,612 07/27/99 MCEWAN

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EXAMINER

TRIEU, T

ART UNIT

PAPER NUMBER

3748

DATE MAILED:
10/27/00

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Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/361,612

Applicant(s)

James A. McEwan

Examiner

Thal-Ba Trieu

Group Art Unit

3748



☐ Responsive to communication(s) filed on _____

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 1-12 is/are pending in the applicat

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 1-8 and 10 is/are rejected.

☒ Claim(s) 9, 11, and 12 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Jul 27, 1999 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been

☒ received.

☐ received in Application No. (Series Code/Serial Number) _____

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____

☐ Interview Summary, PTO-413

☒ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

--- SEE OFFICE ACTION ON THE FOLLOWING PAGES ---

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DETAILED ACTION

Specification

The disclosure is objected to because of the following informalities:

- On page 4, line 9, "*pressurised*" should be replaced by **--pressurized--**.

Correction is required.

Drawings

The drawings are objected to under 37 CFR 1.83(a) because they fail to show "*actuator 13*" (See Page 6, lines 4, 5, and 15) as described in the specification. Any structural detail that is essential for a proper understanding of the disclosed invention should be shown in the drawing. MPEP § 608.02(d). Correction is required.

Claim Objection

Claims 2-9, and 11-12 are objected to because of the following informalities:

- In claim 2, line 1, "*Apparatus*" should be replaced by **--An apparatus--**.
- In claims 3-9, line 1, "*Apparatus*" should be replaced by **--The apparatus--**.
- In claims 11-12, line 1, "*Method*" should be replaced by **--The method--**.

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Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 4 is rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically,

- Line 2, ***“socket”*** lacks antecedent basis in the specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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Claims 1-8, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by of Braddick (Patent Number 4,256,019).

Regarding claims 1-5, Braddick discloses an actuator rod for a turbocharger pressure control assembly, the actuator rod comprising a first elongate portion defining a first rod end (58), and a second portion defining a second rod end (68), the first and second portions being pivotally joined to one another to allow a degree of relative pivotal motion between the two portions in at least one plane perpendicular; and in at least two orthogonal planes perpendicular to the axis of the elongate first portion; the pivot joint being a spherical joint; a socket defined by other of the first and second portions to receive the spherical formation (See Figure 1); and a pneumatic actuator (10) connected to the first rod (58) (See Figure 1).

Regarding claims 6-8, Braddick further discloses the pneumatic actuator (10) comprising a spring (48) loaded diaphragm housed within a pressure chamber (50), the diaphragm being attached to the first rod end (58); and a valve assembly (32), end of the actuating rod being connected to the actuator and the other being connected to the valve assembly, whereby the pneumatic actuator controls operation of the valve assembly via actuator rod (See Abstract, Figure 1, Columns 1-2, lines 1-67, and Column 3, lines 1-20); the valve assembly comprising a lever arm (36) extending from and connected to a valve (32), the second portion of the actuator rod being secured to the lever arm

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extending from the valve assembly by way of which the valve is operated (See Column 4, lines 1-24).

Regarding claim 10, Braddick discloses a method of assembling a pressure control assembly of a turbocharger, the turbocharger comprising:

a turbine housing (24) and a compressor (18) (See Figure 1);

the pressure control assembly comprising a valve assembly (32) mounted within the turbine housing (24);

a pneumatic actuator (38) mounted to the turbocharger to receive pressurized air from the compressor (18);

an actuator rod (58) extending from the pneumatic actuator; and a lever arm (36) extending from the valve assembly (32) and the turbine housing (24) and linking the actuator rod (58) to the valve assembly (32), wherein the actuator rod comprising a first elongate portion defining a first rod end (58), and a second portion defining a second rod end (68), the first and second portions being pivotally joined to one another to allow a degree of relative pivotal motion between the two portions in at least one plane perpendicular to the axis of the elongate first portion; the pivot joint being a spherical joint; a socket defined by one of the first and second portions to receive the spherical formation (See Figure 1); and a pneumatic actuator (10) connected to the first rod (58) (See Figure 1), the method comprising:

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assembling the valve assembly (32) and lever arm (36) on the turbine housing (24) (See Figure 1);

assembling the pneumatic actuator (38) and actuator rod (58) as a subassembly;

mounting the pneumatic actuator/actuating rod sub-assembly to the turbocharger (See Figure 1); and

securing the second portion of the actuator rod to the lever arm (See Figure 1, Columns 1-2, lines 1-67, and Column 3, lines 1-20).

Allowable Subject Matter

Claims 9, 11-12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Prior Art

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure and consist of the following patents:

- Elpern et al. (US Patent Number 5,487,273) disclose a turbocharger having a pneumatic with pilot valve.

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- Shadbourn (US Patent Number 4,377,070) discloses a turbocharger control actuator.
- Vertanen (US Patent Number 5,746,058) discloses an adjustable actuator for a turbocharger.
- Yogo (US Patent Number 4,549,470) discloses a pneumatic actuator.
- Buchi (US Patent Number 2,861,774) discloses an inlet control for radial flow turbine.
- Inoue (Patent Number JP 3570522635 A) discloses a turbocharger unit having a control means of the wastegate valve.
- Yamane (Patent Number GB 2 066 365 A) discloses a turbocharger unit for an internal combustion engine.
- Yamane (Patent Number GB 2 033 007 A) discloses an exhaust turbine driven a compressor for internal combustion engines.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thai-Ba Trieu whose telephone number is (703)-308-6450 . The examiner can normally be reached on Monday-Friday from 8:30 a.m. to 5:00 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas E. Denion, can be reach on (703)308-2623. The fax phone number for this group is (703) 308-7763.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

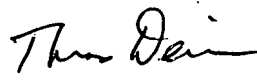
TTB

Thai-Ba Trieu

October 24, 2000

Patent Examiner

Unit art 3748


THOMAS DENION
SUPERVISORY PATENT EXAMINER
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